

**MINUTES
FREMONT CITY COUNCIL REGULAR MEETING
NOVEMBER 23, 2010
FREMONT CITY HALL
7:00 P.M.**

1. PRELIMINARY

1.1 Call to Order: Mayor Wasserman called the meeting to order.

1.2 Flag Salute: Boy Scout Troop 111 led the salute to the flag.

1.3 Roll Call: Present: Mayor Wasserman, Vice Mayor Wieckowski, Councilmembers: Natarajan, Harrison, and Chan.

1.4 Announcements by Mayor/City Manager – None.

2. CONSENT CALENDAR

- * **2.1 Waive Reading of Ordinances:** The City Attorney read the titles of ordinances to be considered.

On a motion by Councilmember Chan, seconded by Councilmember Natarajan, the City Council waived further readings of proposed ordinances.

Ayes:	Mayor Wasserman, Vice Mayor Wieckowski, Councilmembers: Natarajan, Harrison and Chan
Noes:	None
Absent:	None
Abstain:	None

- * **2.2 Approval of Minutes**

On a motion by Councilmember Chan, seconded by Councilmember Natarajan, the City Council approved the minutes for the Special and Regular Meetings and Work Session of May 26, 2009, the Special and Regular Meeting of June 2, 2009, the Special and Regular Meetings of July 7, 2009, the Regular Meeting of July 14, 2009, the Regular Meeting and Joint City Council and Redevelopment Agency Meetings of July 21, 2009, the Regular Meeting and Special City Council and Redevelopment Agency Meetings of July 28, 2009, the Regular Meeting of September 8, 2009, the Regular and Work Session Meetings of October 6, 2009, the Regular Meeting and Work Session of October 20, 2009, the Special and Regular Meetings of October 27, 2009, and the Work Session and Regular Meeting of November 17, 2009

Ayes:	Mayor Wasserman, Vice Mayor Wieckowski, Councilmembers: Natarajan, Harrison and Chan
Noes:	None

Absent: None
Abstain: None

- * **2.3 Mayor Wasserman opened consideration of Second Reading and Adoption of an Ordinance of the City of Fremont Amending the Precise Plan for Planning Area 5 of the Pacific Commons Planned District P-2000-214, Governing Property Generally Located West of Interstate 880, South of Auto Mall Parkway, North of Curie Street and East of the Fremont Auto Mall**

On a motion by Councilmember Chan, seconded by Councilmember Natarajan, the City Council adopted Ordinance No. 21-2010.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,
Councilmembers: Natarajan, Harrison and Chan
Noes: None
Absent: None
Abstain: None

- * **2.4 Mayor Wasserman opened consideration of Second Reading and Adoption of an Ordinance of the City of Fremont Adopting a Third Amendment to the 2000 Amended and Restated Development Agreement between the City and Catellus Development Corporation Relating to the Pacific Commons Project in Southern Fremont**

On a motion by Councilmember Chan, seconded by Councilmember Natarajan, the City Council adopted Ordinance No. 22-2010, including amendments as recommended by staff.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,
Councilmembers: Natarajan, Harrison and Chan
Noes: None
Absent: None
Abstain: None

- * **2.5 Mayor Wasserman opened consideration of Initiation of a Proceeding to Consider a General Vacation to Abandon a Portion of Thornton Avenue at Post Street in the Central Planning Area**

On a motion by Councilmember Chan, seconded by Councilmember Natarajan, the City Council adopted a motion initiating a general vacation proceeding pertaining to the subject property and directed the Clerk to set and publicly notice a public hearing to be held on December 14, 2010.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,
Councilmembers: Natarajan and Chan
Noes: None
Absent: None

Abstain: Councilmember Harrison recused himself due to a conflict of interest related to a business relationship with Dale Hardware

*** 2.6 Mayor Wasserman opened consideration of Adoption of a Mitigated Negative Declaration PLN2008-00114 and Mitigation Monitoring Plan and Approve the Concept Plan for the Sabercat Creek Restoration Project, City Project No. 8658(PWC)**

On a motion by Councilmember Chan, seconded by Councilmember Natarajan, the City Council adopted Resolution No. 2010-65 for the Sabercat Creek Restoration Project:

1. Finding that: (a) the Council has independently reviewed and considered the Mitigated Negative Declaration and other information presented; (b) the Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and is consistent with State and local guidelines implementing CEQA; (c) there is no substantial evidence on the basis of the whole record before the Council that the Project as described in the Mitigated Negative Declaration will have a significant impact on the environment; and (d) the Mitigated Negative Declaration represents the independent judgment and analysis of the City as lead agency for the Project.
2. Designating the City Engineer at the Engineer's Office at 39550 Liberty Street, Fremont, as the location and custodian of documents and records of proceedings on which this decision is based.
3. Adopting the Mitigated Negative Declaration and the Mitigation Monitoring Plan prepared for the Project.
4. Approving the Concept Plan for the Sabercat Creek Restoration Project, PWC8658.
5. Appropriating \$180,000 to 502PWC8658, for contributions to be received from Alameda County Flood Control District for the Sabercat Creek Restoration project.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,
Councilmembers: Natarajan, Harrison and Chan
Noes: None
Absent: None
Abstain: None

*** 2.7 Mayor Wasserman opened consideration of a Public Hearing (Published Notice) to Consider the Planning Commission's Recommendation of a Rezoning to a New Preliminary and Precise Planned District (P-2010-272), a Private Street, and Vesting Tentative Tract Map No. 8054 Allowing a 22-Lot Townhouse Development on a Vacant 0.99-Acre Lot (PLN2010-00272)**

On a motion by Councilmember Chan, seconded by Councilmember Natarajan, the City Council:

1. Held a public hearing;
2. Adopted the Mitigated Negative Declaration and Mitigation Monitoring Program and found that this action reflects the independent judgment of the City of Fremont;

3. Introduced an ordinance that rezones the property and adopts the Preliminary and Precise Planned District and directed staff to prepare and the City Clerk to publish a summary of the ordinance;
4. Found that the Preliminary and Precise Plan for the project and Vesting Tentative Tract Map No. 8054 and the accompanying Private Street as depicted in Exhibits “C” and “D”, respectively, fulfill the applicable requirements set forth in the Fremont Municipal Code;
5. Approved the Preliminary and Precise Plan as shown on Exhibit “C”, and Vesting Tentative Tract Map No. 8054 and the accompanying Private Street as shown on Exhibit “D”, based upon the findings and subject to the conditions of approval set forth in Exhibit “E”.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,
Councilmembers: Natarajan, Harrison and Chan
Noes: None
Absent: None
Abstain: None

3. CEREMONIAL ITEMS

3.1 Resolution: Honoring Coach Pete Michaletos

3.2 Mayor Wasserman opened consideration of Selection of Vice Mayor

By consensus, the City Council appointed Councilmember Suzanne Chan as the Vice Mayor for 2010-11.

4. PUBLIC COMMUNICATIONS

4.1 Oral and Written Communications

Gus Morrison expressed appreciation for the roadwork done on Bay Street and thanked Councilmember Wieckowski for his service to the City. Ron Fong (Mission San Jose High School) asked the community to provide financial donations to the Mission San Jose High School band to help them raise funds for their trip to London.

5. SCHEDULED ITEMS – None.

5.1 Mayor Wasserman opened consideration of a Public Hearing, Second Reading and Adoption of Ordinances and Findings Adopting and Amending the 2010 California Building Standards Code and Adopting by Reference Certain Appendix Chapters of the 2010 California Building Standards Codes, and Making Conforming Changes to the Fremont Municipal Code, and Adoption of Resolutions Containing Supporting Findings and Determinations

Building Official Steven Davis outlined the staff report and discussed specific code changes related to height and number of stories permitted for structures, and options to increase the

allowable height and number of stories for Type V buildings. Staff responded to questions from Councilmembers. Mayor Wasserman opened the public hearing. There were no speakers. Mayor Wasserman closed the public hearing.

On a motion by Councilmember Natarajan, seconded by Councilmember Wieckowski, the City Council:

1. Held a public hearing.
2. Waived full reading and adopted Ordinance No. 23-2010 adopting and amending the 2010 California Building, Electrical, Plumbing, Mechanical, Residential, Green Building, Existing Building, and adopted Ordinance No. 24-2010 adopting and amending the 2010 California Fire Codes.
3. Adopted Resolution No. 2010-66 making findings that the amendments to the 2010 California Building Standards Code are reasonable necessary because of local conditions
4. Adopted Resolution No. 2010-67 making the determination that the more restrictive energy regulations are cost effective.

Ayes:	Mayor Wasserman, Vice Mayor Chan, Councilmembers: Wieckowski, Natarajan and Harrison
Noes:	None
Absent:	None
Abstain:	None

6. REPORT FROM CITY ATTORNEY

6.1 Mayor Wasserman opened consideration of a Report Out from Closed Session of Any Final Action – None.

7. OTHER BUSINESS

7.1 Mayor Wasserman opened consideration of a Report on Potential Regulation of Single-Use Bags

Environmental Services Manager Kathy Cote provided background information, including plastic bags and alternatives and state and local government actions, discussed regulation considerations, outlined regional efforts and staff recommendation, and provided information regarding the November 29 press event. Staff responded to questions from Councilmembers. Mayor Wasserman opened the item for public comment. Gus Morrison (Tri-Ecology Center) expressed support for banning the use of single-use plastic bags and encouraged the City to demonstrate leadership efforts in the East Bay. Allison Chan (Save the Bay) encouraged Council to support Stopwaste.org in their regional effort to conduct the environmental analysis and implement an ordinance. Nina Moore (Fremont Chamber of Commerce) expressed opposition to a Fremont only ban and encouraged Council to coordinate their efforts with Stopwaste.org. There were no other speakers. Mayor Wasserman closed public comment. Another question and answer period followed. Councilmembers provided comment.

On a motion by Councilmember Wieckowski, seconded by Councilmember Natarajan, the City Council deferred adopting a City ordinance to regulate single-use bags and instead participate in a regional effort being coordinated by StopWaste.org. to the extent that the City will proceed with the intention to ban plastic bags and charge a fee permissible on paper bags, and authorized staff to participate in the regional effort to produce an environmental impact report with Stopwaste.org and return to Council in January 2012 or sooner to consider adoption of an ordinance based on the results of the certified environment impact report.

Ayes: Mayor Wasserman, Vice Mayor Chan,
Councilmembers: Wieckowski, Natarajan and Harrison
Noes: None
Absent: None
Abstain: None

7.2 Mayor Wasserman opened consideration of a Resolution to Collect Development Impact Fees at 50% of their Full Amounts in the Midtown District within the Center Business District until December 31, 2011

Senior Planner Wayne Morris reviewed the staff report. Staff responded to questions of Councilmembers. There were no public speakers. Councilmembers provided comment.

On a motion by Councilmember Harrison, seconded by Councilmember Wieckowski, the City Council:

1. Found that this action is exempt from the California Environmental Quality Act per Guideline 15273, Rate Restructuring or Modification, and because a temporary reduction in fees collected is not associated with potentially significant effects upon the environment.
2. Adopted Resolution No. 2010-68 to collect Development Impact Fees at 50% of their full amounts in the Midtown District until December 31, 2011.

Ayes: Mayor Wasserman, Vice Mayor Chan,
Councilmembers: Wieckowski, Natarajan and Harrison
Noes: None
Absent: None
Abstain: None

8. COUNCIL COMMUNICATIONS

8.1 Council Referrals

8.2 Oral Reports on Meetings and Events – None.

9. ADJOURNMENT: There being no further business, Mayor Wasserman adjourned the meeting at 9:25 p.m.

Attest:

Approved:

Dawn G. Abrahamson, City Clerk

BOB WASSERMAN, Mayor